

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

DARRELL WAYNE CLEMENTS,

Plaintiff,

vs.

CAROLYN W. COLVIN, Acting
Commissioner of Social Security
Administration,

Defendant.

CV 15–143–M–DLC–JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendation on September 20, 2016, recommending affirming the Administrative Law Judge’s (“ALJ”) denial of Plaintiff Darrell Clements’s (“Clements”) application for disability insurance benefits under Title II of the Social Security Act, 42 U.S.C. §§ 401–433. The parties failed to timely object to the Findings and Recommendation, and so waived their right to de novo review of the record. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United*

States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Having reviewed the Findings and Recommendation, the Court finds that Judge Lynch did not clearly err in recommending affirming the ALJ's decision which found that Clements was not disabled. The Court agrees with the Findings and Recommendation that: (1) the ALJ gave permissible weight to the medical opinions of Dr. Kilburn and Dr. Hope; (2) the ALJ provided sufficiently clear and convincing reasons for finding that Clements's testimony was only partially believable; and (3) substantial evidence in the record supports the ALJ's assessment of Clements's residual functional capacity.


There being no clear error in Judge Lynch's Findings and Recommendation, IT IS ORDERED that:

(1) Judge Lynch's Findings and Recommendation (Doc. 18) are ADOPTED IN FULL.

(2) Plaintiff Darrell Wayne Clements's Motion for Summary Judgment (Doc. 13) is DENIED.

This case is CLOSED.

Dated this 31st day of October, 2016.



Dana L. Christensen, Chief District Judge
United States District Court